

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

PHILIP G. NERI,	:	
	:	
Petitioner,	:	Civ. No. 14-7656 (RBK)
	:	
v.	:	MEMORANDUM AND ORDER
	:	
NEW JERSEY STATE PAROLE BOARD, et al,	:	
	:	
Respondent.	:	
	:	

Petitioner is a state prisoner currently incarcerated at the Central Reception and Assignment Facility in West Trenton, New Jersey. He is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 with respect to his revocation of parole. Previously, this matter was administratively terminated as petitioner had failed to file his habeas petition on the proper updated form supplied by the Clerk. Petitioner has now submitted an amended habeas petition on the proper form. Therefore, the Clerk will be ordered to reopen this case.

Upon screening the amended petition, the Court has determined that dismissal of the petition without an answer and the record is not warranted. *See Rule 4 of Rules Governing 28 U.S.C. § 2254 Cases.*

Petitioner names the New Jersey State Parole Board as the respondent in this case. However, the proper respondent in this case is the person who is the custodian over petitioner. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004). In this case, the custodian over petitioner is Robert Beuchele, who is the administrator of the Central Reception and Assignment Facility. Therefore, the Clerk shall be ordered to replace the New Jersey State Parole Board with Robert Beuchele as the respondent in this case.

Accordingly, IT IS this 31st day of March, 2015,

ORDERED that the Clerk shall replace the New Jersey State Parole Board with Robert Beuchele as the respondent in this case; and it is further

ORDERED that the Clerk shall serve a copy of the amended petition (Dkt. No. 6.) and this Order on Beuchele and the Attorney General of the State of New Jersey by certified mail, return receipt requested, with all costs of service advanced by the United States, and it is further

ORDERED that respondent shall file a full and complete answer to the habeas petition within forty-five (45) days of the entry of this Order; and it is further

ORDERED that respondent's answer shall address the allegations and grounds of the habeas petition, and shall adhere to the requirements of Rule 5 of the Rules Governing 28 U.S.C. § 2254 Cases; and it is further

ORDERED that the answer shall indicate what transcripts (of pretrial, trial, sentencing, or post-conviction proceedings) are available, when they can be furnished, and what proceedings have been recorded but not transcribed; and it is further

ORDERED that respondent shall attach to the answer parts of the transcript that the respondent considers relevant and, if a transcript cannot be obtained, respondent may submit a narrative summary of the evidence, *see* Rule 5(c) of the Rules Governing 28 U.S.C. § 2254 Cases; and it is further

ORDERED that respondent shall file with the answer a copy of: (1) any brief that petitioner submitted in an appellate court contesting the conviction or sentence, or contesting an adverse judgment or order in a post-conviction proceeding; (2) any brief that the prosecution submitted in an appellate court relating to the conviction or sentence; and (3) the opinions and

dispositive orders relating to the conviction or the sentence, *see* Rule 5(d) of the Rules Governing 28 U.S.C. § 2254 Cases; and it is further

ORDERED that the answer shall contain an index of exhibits; and it is further

ORDERED that respondent shall file the answer, the index of exhibits, and the exhibits electronically; and it is further

ORDERED that respondent shall serve the answer, the index of exhibits, and the exhibits upon petitioner, *see* Rule 5 of the Rules Governing 28 U.S.C. § 2254 Cases; FED. R. CIV. P.

10(c); *Sixta v. Thaler*, 615 F.3d 569, 569 (5th Cir. 2010); *Thompson v. Greene*, 427 F.3d 263, 269 (4th Cir. 2005); *Pindale v. Nunn*, 248 F. Supp. 2d 361, 367 (D.N.J. 2003); and it is further

ORDERED that petitioner may file and serve a reply to the answer within forty-five (45) days of petitioner's receipt of same, *see* Rule 5(e) of the Rules Governing 28 U.S.C. § 2254 Cases; and it is further

ORDERED that within seven (7) days of petitioner's release, be it on parole or otherwise, respondent shall electronically file a written notice of same with the Clerk; and it is finally

ORDERED that the Clerk shall serve this Order on petitioner by regular U.S. mail.

s/Robert B. Kugler
ROBERT B. KUGLER
United States District Judge